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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,801	02/15/2001	Jheroen P. Dorenbosch	PF02049NA	2726

20280 7590 07/11/2003

MOTOROLA INC  
600 NORTH US HIGHWAY 45  
LIBERTYVILLE, IL 60048-5343

EXAMINER

CORSARO, NICK

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/784,801

Applicant(s)

DORENBOSCH, JHEROEN P.

Examiner

Nick Corsaro

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Response to Amendment***

***Response to Arguments***

1. Applicant's arguments with respect to claim 1-16 have been considered but are moot in view of the new ground(s) of rejection.

A new reference has been applied to claims 15 and 16 in order because the applicant's arguments regarding claim 16 were persuasive. However, the limitations do not place the case in conditions for allowance because a further search shows that the limitations of claim 15 and 16 would still be obvious to one of ordinary skill in the art, as is shown by the following claim rejections.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

¶ 7.12.01 Rejection under 35 U.S.C. 102(e), Patent to Another with Earlier Filing Date, Reference is a U.S. Patent Issued Directly or Indirectly From a National Stage of, or a Continuing Application Claiming benefit under 35 U.S.C. 365(c) to, an International Application Having an International Filing Date Prior to November 29, 2000

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 4-9, and 11-16, are rejected under 35 U.S.C. 102(e) as being anticipated by Obhan et al. (6,366,780).

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Consider claims 1 and 8, Obhan discloses **a communication system that provides communication services to a plurality of communication devices over one or more radio frequency (RF) channels** (see abstract lines 1-4 and col. 2 lines 35-46). Obhan discloses spectrum yield management system that controls the allocation of system resources such as the allocation of channels to mobile subscribers, therefore, Obhan discloses **a resource controller that controls at least one communication resource used to provide the communication services to the plurality of communication devices** (see col. 6 lines 23-35, col. 2 lines 35-46, col. 4 lines 63-67, and col. 5 lines 1-23). Obhan discloses an operator interface connected to the resource controller that allows a system operator to manually set a base transceiver subsystem watermark in real-time to guarantee service for certain classes of subscribers such as premium subscribers and non-premium subscribers where the watermark is to designate a channel reservation level that sets the probability that a subscriber is not able to complete a call, conversely the probability of completing a call, therefore, Obhan teaches **an operator interface that interfaces with the resource controller to interactively specify a minimum probability of communication service available to the plurality of the communication devices** (see col. 15 lines 14-25, col. 8 lines 41-53, and col. 11 lines 50-67, col. 5 lines 1-23, col. 16 lines 65-67, col. 17 lines 1-25, col. 12 lines 10-25, col. 5 lines 29-32, col. 5 lines 50-67, and col. 6 lines 1-5). Obhan teaches **the specified minimum probability is obtained by controlling the at least one communication resource** (see col. 15 lines 14-25, col. 8 lines 41-53, and col. 11 lines 50-67, col. 5 lines 1-23, col. 16 lines 65-67, col. 17 lines 1-25, col. 12 lines 10-25, col. 5 lines 29-32, col. 5 lines 50-67, col. 6 lines 1-5, col. 11 lines 50-67, col. 22 lines 55-67, and col. 23 lines 1-16).

Consider claims 2 and 9, Obhan discloses the service availability is modified by changing at least one parameter essentially consisting of: a number of communication devices that receive the communication services; a number of communications devices that receive the communications services in a cell; a bit rate over an RF channel used to communicate data with the communication devices; and a coding algorithm used to communicate information with the plurality of communication devices (see col. 18 lines 17-67, col. 10 lines 10-30, col. 22 lines 55-67, col. 6 lines 40-56, col. 12 lines 10-25, col. 16 lines 3-22, and col. 23 lines 1-60).

Consider claim 4, Obhan discloses the resource controller monitors one or more system parameters to interactively modify communication service availability to the plurality of the communication devices (see col. 22 lines 55-67, col. 15 lines 14-25, col. 8 lines 41-53, col. 11 lines 50-67, col. 5 lines 1-23, col. 16 lines 65-67, col. 17 lines 1-25, col. 12 lines 10-25, col. 5 lines 29-32, col. 5 lines 50-67, col. 6 lines 1-5col. 11 lines 50-67, col. 22 lines 55-67, col. 23 lines 1-16, and col. 23 lines 1-18).

Consider claims 5 and 11, Obhan discloses a system parameter essentially consists of at least one of a number of registered subscribers, load on a RF channel, load on a communication resource, a traffic mix, or a coding algorithm (see col. 5 lines 13-24, and col. 5 lines 50-67, col. 15 lines 14-25, col. 8 lines 41-53, and col. 11 lines 50-67, col. 5 lines 1-23, col. 16 lines 65-67, col. 17 lines 1-25, col. 12 lines 10-25, col. 5 lines 29-32, col. 5 lines 50-67, col. 6 lines 1-5col. 11 lines 50-67, col. 22 lines 55-67, col. 23 lines 1-16 and col. 6 lines 5-16).

Consider claims 6, 12, and 13, Obhan discloses the resource controller monitors load on one or more communication resources over a defined period of time to determine how to control

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the at least one communication resource (see col. 5 lines 41-59, col. 5 lines 13-24, and col. 5 lines 50-67 and col. 6 lines 5-16).

Consider claims 7 and 14, Obhan discloses the resource controller monitors the time that a communication resource is out of service for deriving load distributions, to control the at least one communication resource (see col. 2 lines 62-67, col. 3 lines 1-11, col. 5 lines 15-23, col. 5 lines 40-50 and col. 6 lines 5-16).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obhan et al. (6,366,780) in view of Sen et al. (6,330,451).

Consider claims 3 and 10, Obhan discloses the computer based system that changes the availability where computer based system inherently have algorithms, therefore Obhan discloses a system parameter is changed based on an inherent preprogrammed algorithm to interactively modify communication service availability to the plurality of the communication devices (see col. 4 lines 63-67 col. 4 lines 1-15, and col. 6 lines 57-67). Obhan does not specifically disclose and algorithm. Sen teaches an algorithm (see col. 10 lines 63-67 and col. 11 lines 1-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Obhan, and use an algorithm, as taught by Sen, thus allowing the computer system to perform a repeated function.

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5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obhan in view of Salmivalli et al. (6,324,399).

Consider claims 15 and 16, Obhan discloses the operator interface is capable of adjusting a system parameter corresponding to a number of registered subscribers to modify the minimum probability of communication service availability to a the plurality of subscribers (see col. 16 lines 65-67, col. 17 lines 1-30, col. 8 lines 15-24, col. 13 lines 59-67, and col. 14 lines 1-15).

Obhan does not specifically disclose a system parameter corresponding to a number of registered subscribers to modify the minimum probability of communication service availability to a the plurality of subscribers. Salmivalli teaches a system parameter corresponding to a number of registered subscribers to modify the minimum probability of communication service availability to a the plurality of subscribers (see col. 3 lines 25-32 and col. 4 lines 14-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Obhan, and have a system parameter corresponding to a number of registered subscribers to modify the minimum probability of communication service availability to a the plurality of subscribers, as taught by Salmivalli, thus allowing the system capacity to remain sufficient to serve its own subscribers, as discussed by Salmivalli, (col. 2 lines 33-35).

### ***Conclusion***

2. Any inquiry concerning this communication should be directed to Nick Corsaro at telephone number (703) 306-5616.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung (acting supervisor), can be reached at (703) 308-7745. Any response to this action should be mailed to:

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth, Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 customer Service Office whose telephone number is (703) 306-0377.

Nick Corsaro

A handwritten signature in black ink, appearing to read 'Nick Corsaro', with a stylized, flowing script.